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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

United States Patent and Trademark Office
Board of Patent Appeals and Interferences
600 Dulany Street
Madison /Building East
9th Floor
Alexandria, VA 22314

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BOARD OF PATENT APPEALS
AND INTERFERENCES

Attention: Board of Patent Appeals and Interference

In Re: Interference No. 101,833
(U.S. Patent 4,587,258)
Parties to Interference: Schering Corporation
and Hoechst A.G. (now Aventis)

**Petition for Access to Sealed Documents in Settlement of Patent Interference Pursuant to
Board of Patent Appeals and Interferences Rule 41.205 (d)**

1. I, Edward H. Mazer, have been employed continuously by Schering-Plough Corporation since 1986 in various capacities within the Patent Department. My current position is Senior Director – Patents.

2. Schering Corporation is a wholly-owned subsidiary of Schering-Plough Corporation. I am authorized by Schering Corporation to file this Petition.

3. Schering Corporation, the owner of U.S. Patent No. 4,587,258, was a party to an interference, Interference No. 101,833, with a pending U.S. patent application, U.S. Serial No. 799,284, filed November 19, 1985 which was assigned to Hoechst A.G.

4. Schering Corporation was represented in this Interference proceeding by an outside patent law firm, Kenyon & Kenyon.

5. On September 30, 1988 Douglas Brace, Esq. a member of Kenyon & Kenyon, sent a letter, attached hereto as Exhibit I, to the Commissioner of Patents and Trademarks relating to the termination of the above-noted interference. Enclosed with said letter were true copies of four documents briefly described in said letter. This letter stipulated that these documents, transmitted in a sealed envelope, were to be kept separate from the file of the Interference and that they be made available only to Government agencies upon written request,

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and not to any other person or party except upon a petition showing good cause justifying access to such agreements.

6. A Canadian patent generally corresponding to the aforementioned '258 patent, Canadian Patent No. 1,341,206, also assigned to Schering Corporation, is the subject of patent infringement litigation.

7. During these Canadian patent infringement proceedings, one of the Defendants inquired about the terms for settlement of the interference, including the four documents transmitted in the sealed envelope.

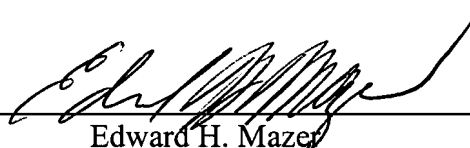
8. Based upon information and belief, Schering's file for this interference proceeding was sent to an Archive facility prior to March 1997. This Archive facility was destroyed in a fire in or about March 1997.

9. Recently, I contacted Kenyon & Kenyon to determine if they still retained copies of the four documents transmitted to the Commissioner of Patents and Trademarks in the aforementioned sealed envelope. I was informed that they no longer retained copies of these documents.

10. Therefore, the Patentee, Schering Corporation respectfully requests that access to the sealed documents be granted to a representative of Betty Byrd, Inc. to make copies of same on our behalf. The Patent requests that Carol Potts of Betty Byrd, Inc. (703.415.1224) be notified when this Petition has been granted.

Further deponent sayeth not.

Nov. 8, 2004
Date


Edward H. Mazer
Attorney for Patentee
Registration No. 27,573

Encl.

County of Union }

State of New Jersey }

Sworn to and subscribed before me by Edward H. Mazer on 8th day
of November, 2004.




Ashly M. Armstrong
NOTARY PUBLIC
ASHLY M. ARMSTRONG
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 3/26/2008

Encl.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

RECEIVED FEE TRANSMITTAL for FY 2005 Effective 10/11/2004. Patent fees are subject to annual revision.		Complete if Known	
Applicant claims small entity status. See 37 CFR 1.27		Application Number	US Pat. No. 4,587,258
		Filing Date	10/23/1980
		First Named Inventor	Bernard R. Neustadt et al.
		Examiner Name	
		Art Unit	
TOTAL AMOUNT OF PAYMENT (\$)		130.00	
		Attorney Docket No.	2328 (2219B)

METHOD OF PAYMENT (check all that apply)	FEE CALCULATION (continued)																																																																																																																				
<input type="checkbox"/> Check <input type="checkbox"/> Credit card <input type="checkbox"/> Money Order <input type="checkbox"/> Other <input type="checkbox"/> None <input checked="" type="checkbox"/> Deposit Account: Deposit Account Number: 19-0365 Deposit Account Name: Schering-Plough Corporation The Director is authorized to: (check all that apply) <input checked="" type="checkbox"/> Charge fee(s) indicated below <input checked="" type="checkbox"/> Credit any overpayments <input checked="" type="checkbox"/> Charge any additional fee(s) or any underpayment of fee(s) <input checked="" type="checkbox"/> Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.	3. ADDITIONAL FEES <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">Large Entity</th> <th style="width: 15%;">Small Entity</th> <th style="width: 55%;">Fee Description</th> <th style="width: 15%;">Fee Paid</th> </tr> </thead> <tbody> <tr> <td>1051 130</td> <td>2051 65</td> <td>Surcharge - late filing fee or oath</td> <td></td> </tr> <tr> <td>1052 50</td> <td>2052 25</td> <td>Surcharge - late provisional filing fee or cover sheet</td> <td></td> </tr> <tr> <td>1053 130</td> <td>1053 130</td> <td>Non-English specification</td> <td></td> </tr> <tr> <td>1812 2,520</td> <td>1812 2,520</td> <td>For filing a request for ex parte reexamination</td> <td></td> </tr> <tr> <td>1804 920*</td> <td>1804 920*</td> <td>Requesting publication of SIR prior to Examiner action</td> <td></td> </tr> <tr> <td>1805 1,840*</td> <td>1805 1,840*</td> <td>Requesting publication of SIR after Examiner action</td> <td></td> </tr> <tr> <td>1251 110</td> <td>2251 55</td> <td>Extension for reply within first month</td> <td></td> </tr> <tr> <td>1252 430</td> <td>2252 215</td> <td>Extension for reply within second month</td> <td></td> </tr> <tr> <td>1253 980</td> <td>2253 490</td> <td>Extension for reply within third month</td> <td></td> </tr> <tr> <td>1254 1,530</td> <td>2254 765</td> <td>Extension for reply within fourth month</td> <td></td> </tr> <tr> <td>1255 2,080</td> <td>2255 1,040</td> <td>Extension for reply within fifth month</td> <td></td> </tr> <tr> <td>1401 340</td> <td>2401 170</td> <td>Notice of Appeal</td> <td></td> </tr> <tr> <td>1402 340</td> <td>2402 170</td> <td>Filing a brief in support of an appeal</td> <td></td> </tr> <tr> <td>1403 300</td> <td>2403 150</td> <td>Request for oral hearing</td> <td></td> </tr> <tr> <td>1451 1,510</td> <td>1451 1,510</td> <td>Petition to institute a public use proceeding</td> <td></td> </tr> <tr> <td>1452 110</td> <td>2452 55</td> <td>Petition to revive - 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SUBMITTED BY		(Complete (applicable))	
Name (Print/Type)	Edward H. Mazer	Registration No. (Attorney Agent)	27,573
Signature		Telephone	908-298-5077
		Date	11/8/2004

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This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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